

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Steady State Imaging, LLC <div style="text-align: right;">Plaintiff,</div>)	Civil No. 0:17-cv-01048-JRT-KMM
v.)	PLAINTIFF STEADY STATE IMAGING, LLC’S MOTION TO EXCLUDE EVIDENCE NOT DISCLOSED IN RESPONSE TO INTERROGATORIES
General Electric Company)	
<div style="text-align: right;">Defendant.</div>)	

Pursuant to the Federal Rules of Civil Procedure 26(e)(1) and 37(c)(1), the Local Rules of this Court, and other applicable law, Plaintiff Steady State Imaging, LLC hereby moves this Court for an Order barring Defendant General Electric Co. (“GE”) from using on any motion, at any hearing, or at trial, the following information that it failed to disclose in response to interrogatories during discovery:

1. Any evidence in support of the 22 affirmative defenses to SSI’s breach of contract claims (Counts 1 and 3) set forth in GE’s Affirmative Defense Paragraphs 3-7, 10, 13-17, and 19 (these were requested in Interrogatory Nos. 2 and 3). The specific defenses at issue are as follows:

Paragraph	Defenses
Third	Estoppel Waiver Acquiescence Laches
Fourth	Statute of Frauds
Fifth	Statute of Limitations
Sixth	Barred by express terms of the agreements

Seventh	Impracticability Impossibility of Performance Frustration of Purpose
Tenth	Failure to provide proper notice of breach
Thirteenth	Failure of consideration Failure of performance
Fourteenth	Promises are unenforceable Promises are void Promises are indefinite
Fifteenth	Absence of writing Absence of clear and definite promise Absence of essential terms
Sixteenth	Lack of authority, both actual and apparent
Seventeenth	Failure to fulfill a condition precedent
Nineteenth	Not an enforceable contract, barred due to defects fatal to contract formation

2. Any evidence concerning GE's policies and procedures for its ATD programs that was set forth in GE's February 16, 2018, supplemental response to Interrogatory No. 6; and
3. Any evidence concerning GE's ATD program on quiet imaging that was set forth in GE's February 16, 2018 supplemental response to Interrogatory No. 7.

This motion is based on the file, record and proceedings herein, as well as the accompanying Memorandum of Law and Declaration of Paul J. Robbennolt with exhibits filed herewith.

Dated: March 27, 2018

WINTHROP & WEINSTINE, P.A.

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